

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

CYNTHIA CHRISTENSEN, et al.

Civil No. 05-6349-HO  
(LEAD CASE)

Plaintiffs,

v.

Civil No. 05-6367-HO  
(MEMBER CASE)

DARA PARVIN, et al.,

ORDER

Defendants.

Finding no evidentiary basis upon which a reasonable trier could conclude that Title VII's employee numerosity element is satisfied, order dated December 21, 2006, at 5-6, the court entered amended judgment in favor of defendants on plaintiffs' Title VII claims. Defendants filed a motion for attorney fees and cost bill. Defendants seek \$47,499.50 in attorney fees, and \$146.45 in costs.

Defendants' motion for attorney fees is denied. Attorney fee awards to defendants in Title VII cases risk discouraging meritorious litigation. Equal Employment Opportunity Commission

v. Bruno's Restaurant, 13 F.3d 285, 287-88 (9<sup>th</sup> Cir. 1993) (citing to Christianburg Garment Co., v. Equal Opportunity Employment Commission, 434 U.S. 412 (1978)). The quality of the payroll records in these cases make it difficult to know with certainty that the employee numerosity requirement was not satisfied for any relevant time period, as defendants contend. See Eichman v. Linden & Sons, Inc., 752 F.2d 1246, 1250-51 (7<sup>th</sup> Cir. 1985). The merits of plaintiffs' discrimination allegations remain untested.

The bill of costs is allowed.

Conclusion

Based on the foregoing, defendants' motion for attorney fees [#85] is denied; defendants' bill of costs [#87] is allowed.

IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of April, 2007.

s/ Michael R. Hogan  
United States District Judge